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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/673,947      | 12/15/2000  | Bernard Viville      | 518-1013            | 8926             |

7590 03/24/2004

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| EXAMINER |
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HANSEN, JAMES ORVILLE

|          |              |
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| ART UNIT | PAPER NUMBER |
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3637

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/673,947

Applicant(s)

VIVILLE, BERNARD

Examiner

James O. Hansen

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-14 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-14, 16 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 26, 2004 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 11-14 & 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Ball [U.S. Patent No. 2,463,506]. Ball (figures 1-12) teaches of a chest (10 or 13) capable of distributing food, the chest being provided with a vertical mast (17) on which supports (16) are fixed via elements (59), the mast having a longitudinal axis (see fig. 1), the chest having lifting means (disclosed as a suspension device) in the chest for moving the mast in vertical translation, and in which at least some of the supports are movable in rotation about an axis which coincides with the longitudinal axis of the mast [it is noted that the supports are positioned for rotary movement as disclosed in the specification, and that rotational movement coincides with the longitudinal axis of the mast]. The chest being suitable for maintaining a constant

Art Unit: 3637

temperature [it's completely enclosed for example] as broadly recited. The mast being adjacent to a vertical edge (fig. 1) as broadly recited. The chest including a housing (viewed as the compartment or "housing" above element 23 as depicted in fig. 1) capable of accommodating thermal blocks. The chest including a spacer (middle 61) located between two supports (16's) on the mast as broadly recited. The chest further including a retractable guide (36) for facilitating insertion of the supports as broadly recited.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11-13, 16 & 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bugenhagen [U.S. Patent No. 2,563,208] in view of Hoffmann et al., [U.S. Patent No. 3,531,169]. Bugenhagen (figures 1-10) teaches of a chest (1) capable of distributing food, the chest being provided with a vertical mast (3) on which supports (disclosed as shelves) are fixed via element (5), the mast having a longitudinal axis (see fig. 1), the chest having lifting means (see fig. 4) in the chest for moving the mast in vertical translation, and in which at least some of the supports are movable in rotation about an axis which coincides with the longitudinal axis of the mast [it is noted that the supports are utilized for rotary movement as disclosed in the specification, and that rotational movement coincides with the longitudinal axis of the mast]. The chest being suitable for maintaining a constant temperature [refrigerator].

Art Unit: 3637

The mast being adjacent to a vertical edge (fig. 1) as broadly recited. The chest including a spacer (25 for example) located between two supports (shelves) on the mast as broadly recited. The chest further including a retractable guide (5) for facilitating insertion of the supports as broadly recited. Bugenhagen teaches applicants inventive claimed structure as disclosed above; including a lid (2) for the top of the chest, but Bugenhagen does not show the lid as being two parts which may open up to form two shelves, or show castors on the bottom of the chest. However, Hoffmann (figures 1-9) teaches of a chest (10) in an analogous art having a lid comprising two parts (25) that open up to form two horizontal shelves (fig. 2), and castors (20) on the bottom of the chest. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the chest of Bugenhagen so as to incorporate a two lid halves and castors as taught by Hoffmann because this arrangement would provide Bugenhagen with a lid that when removed would function as serving platforms on either side of the open top of the chest thereby providing an additional work surface while utilizing the chest, and the castors would provide mobility to Bugenhagen's chest so that the chest could be wheeled to desired locations without having to lift the chest.

***Allowable Subject Matter***

6. Claim 17 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

7. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.


**Conclusion**

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lichtstern et al., describes a mobile chest with pivoting lid halves that form horizontal shelves. Atwater describes a chest with a vertical mast and rotating supports.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 703-305-7414. The examiner can normally be reached on Mon.-Fri. 8-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James O. Hansen  
Primary Examiner  
Art Unit 3637

JOH  
March 19, 2004